

REMARKS

The Examiner's continued attention to the present application is noted with appreciation.

In Section 3 of the Office Action dated September 22, 2004, the Examiner rejected claims 41, 43, 50, 52, 57-59, 93, 95, 98, 101, 103, 107-110, and 113 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,973,082 (to Kincheloe) in view of U.S. Patent No. 6,182,784 (to Petstotnik). The rejection is traversed, particularly in light of the amendments to independent claims 41, 60, 76, and 93.

The device of Kincheloe is both shaped differently and performs a different function than does the present invention. Kincheloe discloses a roll cage for motorized vehicles. The embodiment discussed by Kincheloe is designed for an all-terrain vehicle commonly referred to as an ATV and, as noted by Kincheloe, may be adapted to other "personal motorized vehicles, such as snowmobiles, etc." (See Kincheloe, column 6, lines 62-65). Notably, Kincheloe does not discuss a wedge shaped nose but rather a roll cage which "is substantially elliptical in shape when viewed from the side" so that the "shape aides in accident recovery during two of the most typical ATV accidents, namely, pitching the machine backward when accelerating up a steep hill, or pitching the machine forward when striking an object while heading downhill." (See Kincheloe, column 4, lines 19-30). The device of Kincheloe is designed to ensure the personal safety of the driver. Because the device of Kincheloe is a roll cage designed for personal vehicles, rather than working vehicles, and has an "elliptical" shape, there is nothing to suggest or motivate one in the art to use the shape of Kincheloe's roll-cage in the present invention.

The wedge-shaped nose of the present invention is designed to clear the path of the vehicle. (See Application, page 11, lines 5-8; page 17, lines 5-7). In addition to maneuvering through obstacles in the vehicle's path, the path clearing feature of the nose is discussed in added detail where it is stated that it "wedges through doorways, between walls, between cars, etc." (See Application page 19, lines 7-14). The elliptical roll-cage of Kincheloe cannot perform the function of the wedge-shaped nose of the present invention. This feature is clarified in the amendments to claims 41, 60, 76, and 93 wherein, in accordance with the common definition of a wedge, the wedge shape is shown to have at least two sides angled in a

wedge towards each other at a point at a front of the nose. This defined structure is clearly not an "ellipse".

The embodiment discussed by Pestotnik is a four-wheeled vehicle commonly referred to as an ATV ("all terrain vehicle"). In column 5, line 59, Pestotnik mentions that the number of wheels can vary, to include three wheels, without having any impact on the invention. Such a reference is hardly a motivation or suggestion to utilize three wheels in an apparatus like that of the present invention where three wheels or a triangular wheel base are an integral part of the invention. As noted in the Application, the ability of the vehicle to maneuver through a variety of obstacles leads to the incorporation of a 360 degree nose wheel or brake steering; such steering helps keep the vehicle from being trapped by an inability to turn the wheels such as when it is wedged between obstacles. (See Application, page 19, lines 17-23). The motivation to use three wheels in the present invention derives from the use to which the invention will be put. The ATV of Pestotnik is apparently not meant to be put in situations where it might be wedged between obstacles. The use of triangular wheel bases in all three-wheeled ATV's, of which the device of Pestotnik is but one example, is to narrow the wheel base for maneuvering that is specialized in off-road motorcycles and ATV's – the focus of such maneuvering is not to permit a 360 degree turning radius.

Therefore, there would be no motivation to combine the three wheeled device of Pestotnik with the elliptical roll cage of Kincheloe. Moreover, such a combination would not result in the present invention.

In column 6, lines 59-67, Pestotnik mentions, without much discussion, a shaft (element 56(a)) that extends outwardly from the ATV that can be used to drive various devices, including a fire fighting pump. Pestotnik does not appear to disclose a fluid delivery tank, as stated by the Examiner. Again, the use of a drive shaft as disclosed by Pestotnik does not suggest or motivate the use of a fluid delivery tank as disclosed in the present invention. Using the shaft of Pestotnik would not lead to the present invention.

Therefore, claims 41 and 93 are believed to be patentable. Claims 43, 50, 52, 57-59, and 110 are dependent on claim 41 and claims 95, 98, 101, 103, 107-109, and 113 are dependent on claim 93. Accordingly, claims 43, 50, 52, 57-59, 95, 98, 101, 107-110, and 114 also are believed to be patentable.

In Section 4 of the Office Action, the Examiner rejected claims 44 and 96 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and further in view of U.S. Patent No. 5,061,748 (to Bolton et al.). Claim 44 is dependent on claim 41, and claim 96 is dependent on claim 93. Therefore, claims 44 and 93 also are believed to be patentable.

In Section 5 of the Office Action, the Examiner rejected claims 45 and 97 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and further in view of U.S. Patent No. 5,855,386 (to Atkins). Claim 45 is dependent on claim 41, and claim 97 is dependent on claim 93. Therefore, claims 45 and 97 also are believed to be patentable.

In Section 6 of the Office Action, the Examiner rejected claims 48 and 99 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and further in view of U.S. Patent No. 4,359,127 (to Arnold). Claims 48 and 99 provide for 360 degree rotation on the front wheel rather than on a wheel as depicted in the forklift of Arnold. Therefore claims 48 and 99 are believed to be patentable. Also claims 48 is dependent on claim 41, and claim 98 is dependent on claim 93. Therefore, claims 48 and 99 also are believed to be patentable on that basis as well.

In Section 7 of the Office Action, the Examiner rejected claims 51 and 102 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and further in view of U.S. Patent No. 6,029,750 (to Carrier). Claim 51 is dependent on claim 41, and claim 103 is dependent on claim 93. Therefore, claims 51 and 102 also are believed to be patentable.

In Section 8 of the Office Action, the Examiner rejected claims 53 and 104 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and further in view of U.S. Patent No. 4,593,855 (to Forsyth). However, the portion of the device of Forsyth that may be airlifted is a "module 1" that is detachably mountable to the vehicle of Forsyth (See Forsyth, col. 2, lines 35-39) and its low weight allows the module to be airlifted (See Forsyth, col. 5, lines 29-32). In the present invention, the entire vehicle may be airlifted. Therefore, claims 53 and 104 are believed to be patentable. Also, claim 53 is dependent on claim 41, and claim 104 is dependent on claim 93. Therefore, claims 53 and 104 are believed to be patentable on that basis as well.

In Section 9 of the Office Action, the Examiner rejected claims 54 and 105 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and further in view of U.S. Patent No. 5,511,599 (to Willard, Jr.). Claim 54 is dependent on claim 41, and claim 105 is dependent on claim 93. Therefore, claims 54 and 105 also are believed to be patentable.

In Section 10 of the Office Action, the Examiner rejected claims 55 and 106 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and further in view of U.S. Patent No. 5,325,933 (to Matsushita). However, Matsushita discloses steering control for a tracked vehicle such as a bulldozer. That device is distinguishable from the present invention which comprises brake steering. Therefore, claims 55 and 106 are believed to be patentable. Also, claim 55 is dependent on claim 41, and claim 106 is dependent on claim 93. Therefore, claims 55 and 106 also are believed to be patentable on that basis as well.

In Section 11 of the Office Action, the Examiner rejected claims 42, 49, 94, and 100 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and further in view of U.S. Patent No. 6,289,995 (to Fuller). Claims 42 and 49 are dependent on claim 41, and claims 94 and 100 are dependent on claim 93. Therefore, claims 42, 49, 94, and 100 also are believed to be patentable.

In Section 12 of the Office Action, the Examiner rejected claims 60, 62, 66, 68, 73-75, and 111 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Arnold. As noted above, the devices of Kincheloe, Pestotnik, and Arnold are distinguishable from the present invention. Therefore, claim 60 is believed to be patentable as are claims 62, 66, 68, 73-75, and 111. Also, claims 62, 66, 68, 73-75, and 111 are dependent on claim 60. Therefore, claims 62, 66, 68, 73-75, and 111 are believed to be patentable on that basis as well.

In Section 13 of the Office Action, the Examiner rejected claim 61 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Arnold and further in view of Fuller. As noted above, the devices of Kincheloe, Pestotnik, and Arnold are distinguishable from the present invention. Therefore claim 61 is believed to be patentable. Also, claim 61 is dependent on claim 60. Therefore, claim 61 is believed to be patentable on that basis as well.

In Section 14 of the Office Action, the Examiner rejected claim 63 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Arnold and further in view of Bolton et al. As noted above, the devices of Kincheloe, Pestotnik, and Arnold are distinguishable from the present invention. Therefore claim 63 is believed to be patentable. Also, claim 63 is dependent on claim 60. Therefore, claim 63 is believed to be patentable on that basis as well.

In Section 15 of the Office Action, the Examiner rejected claim 64 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Arnold and further in view of Atkins. As noted above, the devices of Kincheloe, Pestotnik, and Arnold are distinguishable from the present invention. Therefore claim 64 is believed to be patentable. Also, claim 64 is dependent on claim 60. Therefore, claim 64 is believed to be patentable on that basis as well.

In Section 16 of the Office Action, the Examiner rejected claim 65 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Arnold and further in view of Fuller. As noted above, the devices of Kincheloe, Pestotnik, and Arnold are distinguishable from the present invention. Therefore claim 65 is believed to be patentable. Also, claim 65 is dependent on claim 60. Therefore, claim 65 is believed to be patentable on that basis as well.

In Section 17 of the Office Action, the Examiner rejected claim 67 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Arnold and further in view of Carrier. As noted above, the devices of Kincheloe, Pestotnik, and Arnold are distinguishable from the present invention. Therefore claim 67 is believed to be patentable. Also, claim 67 is dependent on claim 60. Therefore, claim 67 is believed to be patentable on that basis as well.

In Section 18 of the Office Action, the Examiner rejected claim 69 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Arnold and further in view of Forsyth. As noted above, the devices of Kincheloe, Pestotnik, Arnold, and Forsyth are distinguishable from the present invention. Therefore claim 69 is believed to be patentable. Also, claim 69 is dependent on claim 60. Therefore, claim 69 is believed to be patentable on that basis as well.

In Section 19 of the Office Action, the Examiner rejected claim 70 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Arnold and further in view of Willard. As noted above, the devices of Kincheloe, Pestotnik, and Arnold are distinguishable from the present invention. Therefore claim 70 is believed to be patentable. Also, claim 70 is dependent on claim 60. Therefore, claim 70 is believed to be patentable on that basis as well.

In Section 20 of the Office Action, the Examiner rejected claim 71 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Arnold and further in view of Matsushita. As noted above, the devices of Kincheloe, Pestotnik, Arnold, and Matsushita are distinguishable from the present invention. Therefore claim 71 is believed to be patentable. Also, claim 71 is dependent on claim 60. Therefore, claim 71 is believed to be patentable on that basis as well.

In Section 21 of the Office Action, the Examiner rejected claims 76, 78, 81, 84, 86, 90-92, and 112 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Matsushita. As noted above, the devices of Kincheloe, Pestotnik, and Matsushita are distinguishable from the present invention. Therefore, claim 76 is believed to be patentable, as are claims 78, 81, 84, 86, 90-92, and 112. Also, claims 78, 81, 84, 86, 90-92, and 112 are dependent on claim 76. Therefore, claims 78, 81, 84, 86, 90-92, and 112 are believed to be patentable on that basis as well.

In Section 22 of the Office Action, the Examiner rejected claims 77 and 83 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Matsushita and further in view of Fuller. As noted above, the devices of Kincheloe, Pestotnik, and Matsushita are distinguishable from the present invention. Therefore claims 77 and 83 are believed to be patentable. Also, claims 77 and 83 are dependent on claim 76. Therefore, claims 77 and 83 are believed to be patentable on that basis as well.

In Section 23 of the Office Action, the Examiner rejected claim 79 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Matsushita and further in view of Bolton et al. As noted above, the devices of Kincheloe, Pestotnik, and Matsushita are distinguishable from the present invention. Therefore claim 79 is believed to be patentable. Also, claim 79 is dependent on claim 76. Therefore, claim 79 is believed to be patentable on that basis as well.

In Section 24 of the Office Action, the Examiner rejected claim 80 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Matsushita and further in view of Atkins. As noted above, the devices of Kincheloe, Pestotnik, and Matsushita are distinguishable from the present invention. Therefore claim 80 is believed to be patentable. Also, claim 80 is dependent on claim 76. Therefore, claim 80 is believed to be patentable on that basis as well.

In Section 25 of the Office Action, the Examiner rejected claim 82 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Matsushita and further in view of Arnold. As noted above, the devices of Kincheloe, Pestotnik, Matsushita, and Arnold are distinguishable from the present invention. Therefore claim 82 is believed to be patentable. Also, claim 82 is dependent on claim 76. Therefore, claim 82 is believed to be patentable on that basis as well.

In Section 26 of the Office Action, the Examiner rejected claim 85 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Matsushita and further in view of Carrier. As noted above, the devices of Kincheloe, Pestotnik, and Matsushita are distinguishable from the present invention. Therefore claim 85 is believed to be patentable. Also, claim 85 is dependent on claim 76. Therefore, claim 85 is believed to be patentable on that basis as well.

In Section 27 of the Office Action, the Examiner rejected claim 87 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Matsushita and further in view of Forsyth. As noted above, the devices of Kincheloe, Pestotnik, Matsushita, and Forsyth are distinguishable from the present invention. Therefore claim 87 is believed to be patentable. Also, claim 87 is dependent on claim 76. Therefore, claim 87 is believed to be patentable on that basis as well.

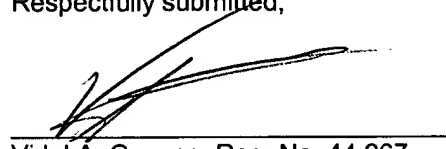
In Section 28 of the Office Action, the Examiner rejected claim 88 under 35 U.S.C. § 103(a) as being unpatentable over Kincheloe in view of Pestotnik and Matsushita and further in view of Willard, Jr. As noted above, the devices of Kincheloe, Pestotnik, and Matsushita are distinguishable from the present invention. Therefore claim 88 is believed to be patentable. Also, claim 88 is dependent on claim 76. Therefore, claim 88 is believed to be patentable on that basis as well.

In view of the above amendments and remarks, it is respectfully submitted that all grounds of rejection and objection have been avoided and/or traversed. It is believed that the case is now in condition for allowance and same is respectfully requested.

If any issues remain, or if the Examiner believes that prosecution of this application might be expedited by discussion of the issues, the Examiner is cordially invited to telephone the undersigned attorney for Applicant at the telephone number listed below.

Respectfully submitted,

By:


Vidal A. Oaxaca, Reg. No. 44,267
Direct line: (505) 998-1505

PEACOCK MYERS & ADAMS, P.C.
Attorneys for Applicant(s)
P.O. Box 26927
Albuquerque, New Mexico 87125-6927

Telephone: (505) 998-1500
Facsimile: (505) 243-2542

Customer No. 005179

G:\AMDS\Firestrike Int'l. - Emergency Response Vehicle_Supp OA Resp 12-04.doc